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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

7
8 NSIGHT, INC., No. 3:04 CV 3836 MMC (MEJ)

9 Plaintiff,
10 vs.

**ORDER DENYING PLAINTIFF'S
REQUEST FOR SUPPLEMENTAL
DISCLOSURES**

11 PEOPLESOFt, INC.,
12 Defendant.

**ORDER GRANTING DEFENDANT'S
REQUEST FOR SUPPLEMENTAL
DISCLOSURES**

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14 The Court is in receipt of the parties' Joint Meet and Confer Letter Regarding Rule 26
15 Disclosures (Letter No. 2 of 4), filed May 9, 2006. Doc. #121. In the letter, plaintiff nSight, Inc.
16 seeks an order compelling defendant Oracle USA, Inc. to provide further discovery based on its
17 alleged failure to produce information in its initial disclosures. Specifically, nSight contends that
18 Oracle should have listed in its initial Rule 26 disclosures the names of Craig Conway, former CEO
19 of PeopleSoft, and David Duffield, PeopleSoft's founder. In turn, Oracle also seeks further
20 discovery involving documents that nSight has indicated it will use to support its claims, but refuses
21 to produce on grounds of attorney work product.

22 First, as to Craig Conway and David Duffield, Federal Rule of Civil Procedure 26 requires
23 that initial disclosures set forth the names of individuals "likely to have discoverable information
24 that the disclosing party may use to support its claims or defenses . . ." Fed. R. Civ. P. 26(a)(1)(A).
25 Oracle argues that it had, and currently has, no intent to use Mr. Conway or Mr. Duffield to support
26 its defenses, therefore it had no obligation to include their names in its initial Rule 26 disclosure.
27 The Court agrees. As Oracle did not, and still does not, intend to use these witnesses, it was not
28 necessary to disclose them under Rule 26.

1 Second, if nSight intends to introduce documents as evidence to support its claims, Rule 26
2 requires that it provide the documents as part of its initial disclosures. Fed. R. Civ. P. 26(a)(1)(B).
3 Accordingly, the Court hereby ORDERS nSight to produce, within 30 days of this Order, all
4 documents it intends to use as evidence to support its claims. For any documents in its possession,
5 custody, or control that nSight fails to produce with 30 days, it is hereby precluded from introducing
6 them as evidence in this matter.

7 **IT IS SO ORDERED.**

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9 Dated: May 11, 2006

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MARIA-ELENA JAMES
United States Magistrate Judge